

# VERNER SIMON

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**VIA ECF**

The Honorable Robyn F. Tarnofsky  
United States Magistrate Judge  
United States District Court  
500 Pearl Street  
New York, New York 10007

The deadline for the parties' next joint status update is extended nunc pro tunc until December 20, 2024. The next joint status update shall be due on January 3, 2025. The Clerk of Court is respectfully requested to terminate ECF 139.

Date: 12/17/24  
New York, NY

**SO ORDERED**



ROBYN F. TARNOFSKY  
UNITED STATES MAGISTRATE JUDGE

Re: *Harmon v. Mosley, et al.*  
Case No. 1:23-cv-04225

Dear Magistrate Judge Tarnofsky:

I respond to the letter request filed unilaterally by the Mosley Defendants seeking extension to file a weekly status report. As set forth below, I suggest the Mosley Defendants' counsel had better course of practice to follow.

Before I address counsels' descent into unilateral filings regarding these reports, I respond to the request for extensions to ask for additional consideration. Unlike the opposing counsel, I sought their consent by email (attached) but they have not yet responded as of this filing.

The Friday December 13<sup>th</sup> report was impeded by the fact that the litigants are working through discovery in the case - the deposition of attorney Leibowitz was taken on Thursday, as discussed below. Further, the general activities of the holiday season are certainly impeding my Fridays and, I imagine, other counsel in this case. On this level, I inform the Court that my office is generally closed (as is my annual practice) from Dec. 20 through Jan. 2. During this end-of-year break I travel a bit, have my four children visit and also take care of all the year-end administrative and office duties that a solo-practitioner tends to let go during the year. At the same time, I remain mindful of certain essential and unmoving court activities usually related to criminal defense cases. I am hopeful this year will not be the exception to my annual custom and habit as that would be disruptive of my 2025 practice start.

Further, per the Order at ECF #124, this Court granted the Mosley Defendants' request that my taking of their depositions could occur before January 17<sup>th</sup> and other non-parties before January 31<sup>st</sup>. I intend to schedule those examinations by week's end with their counsel. I advise that the Plaintiffs' expert is seemingly on schedule per that Order.

In short, based upon these factors and because no discovery is set for the period, I request that the reporting requirement be suspended until Friday, January 10<sup>th</sup>. On that date Plaintiffs intend to have the remaining depositions scheduled and the Plaintiffs' expert report served.

VERNER SIMON

Hon. Robyn F. Tarnofsky

December 16, 2024

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Having set out Plaintiffs' position and request on reporting dates, I address the apparent need by the Mosley attorneys to litigate by back-hand slaps and unilateral filings. Today's filing together with their Friday evening emails to set up a reporting failure demonstrates that the Mosley camp has devolved into failing to confer with counsel. Further, their filing intentionally omitted to mention and attach my draft status report sent in my email to them last night (attached here). They also, perhaps intentionally, fail to remind the Court that I presently work primarily on Pacific Time meaning that my draft report was sent to them at 10:00 p.m. Sunday evening. The juvenile attempts to cast aspersions should be transparent to the Court. I submit that this repeated pattern of abusing the reporting requirement should be admonished.

Thank you for your consideration.

Respectfully submitted,

VERNER SIMON

s/ Paul W. Verner  
Paul W. Verner